

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION**

## UNITED STATES' RESPONSE TO THE DISTRICT COURT'S ORDER FOR A CASE

## **STATUS UPDATE**

**NOW INTO COURT**, by and through undersigned counsel, comes the United States of America, Plaintiff, and in response to the District Court's September 4, 2012, Order to inform the Court on the status of the case; inform the Court of any impediment to resolving the case; and, the prospects of resolution in the near future avers as follows:

This condemnation action was initiated on February 5, 2008, with the filing of a Declaration of Taking and deposit of one hundred dollars ("\$100.00") in the Registry of the Court (Docket No. 2, 7). The United States of America filed the condemnation after completing its due diligence in attempting to locate the Landowners associated with the subject property. The United States was unable to locate the Landowners and ultimately filed a Certificate of Service and Certificate of Service by Publication and Mailing (Docket No. 9, 10) stating that the United States would serve through publication per Federal Rules of Civil Procedure 4 and 71.1.(d)(3)(B), and showing that service was completed. The case remains unresolved and the Landowners have not been identified.

The United States of America filed the condemnation after recognizing that a condemnation action was necessary to clear title during the United States' initial investigation and survey for the border fence alignment. However, this condemnation action took only a temporary Right of Entry that did not result in a second condemnation of land for use in the border fence project.

The right of entry in this case has expired by its own terms. Service in this case has been completed. Per 28 U.S.C. § 2042, the United States will seek leave from this Court to return the money deposited to the United States Treasury in the name and to the credit of the United States upon the fifth anniversary of the deposit, if the Landowner has not appeared to seek disbursal of the money before that time.

**WHEREFORE**, premises considered, the United States prays the Court continue the suspension of deadlines in this matter pending contact from a Landowner seeking to petition for disbursal of funds from the Registry of the Court.

Respectfully submitted,

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